REMARKS

Applicant has articulated the deficiencies of the cited references and established that even if combined, they would not result in the claimed invention. The claims must be read as a whole and do not constitute a recipe from which the Examiner can simply pick and choose elements and point to disparate references that the Examiner can come up with a reference for each broadly defined concept (e.g. Adams addresses implantable medical devices), does not establish a primae facie case of obviousness. The reference must be relevant to one another and there must be some teaching, suggestion or motivation to combine them to achieve the claimed invention and the claims themselves must not be relied upon as this is classic hindsight. Applicant respectfully asserts that the combination of references does not render the claims obvious.

I. Claim amendment

Claim 4 has been amended to substitute "medical practitioner" for "nurse" in order to make the claim internally consistent.

II. Rejections under 35 USC §103

Claims 4-10 stand rejected under 35 USC § 103(a) as being unpatentable over Finkelstein et al. (U.S. Patent No. 6,283,923) and Barry et al. (U.S. Patent No. 6,081,786) in further view of Adams et al. (U.S. Patent No. 5,336,245). However, because the cited references do not disclose all the elements of claims 4-10, nor is there any motivation to combine the cited references, claims 4-10 are patentable and allowance of claims 4-10 is respectfully requested.

Independent claim 4 claims an internet-based method for a service to enable a medical practitioner to access a secure website to respond to a notification of an event relating to a remote patient having an implanted medical device. The method includes:

receiving data indicative of the event from the implanted medical device;

alerting the medical practitioner to the event using an event service; and

enabling the medical practitioner to execute secure access to a patient

database in a single sign on action.

Neither Finkelstein et al. nor Barry et al. disclose receiving data indicative of an event from an implanted medical device. In fact, neither Barry et al. nor Finkelstein et al. relate to an implanted medical device at all. Finkelstein et al. discloses a system for remotely monitoring asthma severity, in which the patient administers a self-test and then transmits the test results over the internet. The data is analyzed by a computer system, and if pre-defined alert conditions are satisfied, a message is sent to the patient or physician. However, this data is not received from an implanted device, nor is the physician able to access a patient database in a single action.

Barry et al. discloses an expert system that helps physicians determine optimal treatment for AIDS patients. Barry et al. has nothing to do with an implantable medical device, nor does Barry et al. disclose anything about alerting a medical practitioner to an event using an event service. While Barry et al. discloses logging on to a local server via a client to access a computer system and obtaining some privileges, it does not disclose the step of enabling a medical practitioner to execute secure access to a patient database in a single sign on action.

Adams does not disclose "alerting the medical practitioner to the event using an event service". Adams discloses a handheld interrogator that retrieves data from an implanted medical device and stores it in memory. The interrogator disclosed in Adams analyzes data from the IMD and then instruct the patient as to whether the test was satisfactory or whether the patient should telephone his or her doctor. In contrast, the invention of claim 4, after receiving data indicative of an event, alerts the medical practitioner to the event using an event service. An event notification service signal 112 is generated in the event of physiologic data containing information meeting certain criteria. (Application page 8, lines 410). Adams does not disclose alerting a medical practitioner to the event using an event service. Nor does Adams disclose allowing a physician to access a patient database in a single action.

Thus, all of the elements of claim 4 are not disclosed in the prior art, and claims 4-10 are therefore patentable.

However, even if all of the elements of the claimed invention are disclosed, there is no suggestion or motivation to combine or modify the references. MPEP 2143.01. Finkelstein et al. relates to gathering data from a self-test performed by an asthma patient; Barry et al. relates to a computer expert system for determining the best treatment for an AIDS patient; and Adams et al. relates to a handheld interrogator for collecting data from an IMD. No one who is skilled in the art would consider combining these references to create the claimed invention.

Furthermore, the Office Action has not provided any specific motivation from the prior art that would suggest the proposed modification of Adams. Instead, it is suggested in the Office Action that the motivation to combine references arises from the desire of physicians to access and obtain data from an implantable medical device (citing to the Abstract and col. 2, lines 28-30 of Adams). However, Adams simply discloses a device that is able to receive, store and transmit data from an IMD. The idea that a statement like "The device retrieves all available data from the implanted device and stores it is memory (Adams, col. 2, lines 28-30) would motivate on skilled in the art to modify Adams to include alerting the medical practitioner to the event using an event service; and enabling the medical practitioner to execute secure access to a patient database in a single sign on action is unsupportable. The Examiner is using improper hindsight to combine these references.

III. Conclusion

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned attorney to attend to these matters. The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

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/Daniel G. Chapik/
Daniel G. Chapik
Reg. 43,424
Telephone: (763) 514-3066
Customer No. 27581